

THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

DECEMBER EXAMINATION- 2020

LAW 241.003
Torts

Assistant Professor Samuel Beswick

EXAM PASSWORD: ya9rV2
RESUME CODE: ABC213

TOTAL MARKS: 100

(8:50 AM PST) **PREPARATION TIME ALLOWED: 10 MINUTES**

(9:00 AM PST) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 75 MINUTES**

8:50-9:00 AM Preparation Time (Exam writing not permitted) – This time is given to students to download/print your exam questions once the exam has been made available online on Canvas, to read the Exam Password on this exam coversheet, to enter the Exam Password for the exam in Exemplify, and to progress in Exemplify until you see the **STOP SIGN**, where you will **WAIT until 9:00 AM. DO NOT proceed past the STOP SIGN. DO NOT begin typing your exam answers in Exemplify until 9:00 AM!**

9:00 AM Exam Writing Time – At 9:00 AM, you may proceed past the **STOP SIGN** in Exemplify and begin typing your exam answers. Students are required to calculate and monitor their own time for writing exams. All exam answer uploads will be monitored to ensure that typing of answers only occurred during the allotted Exam Writing Time.

This is an open book examination, meaning that you can refer to your notes, the class syllabus, and the casebook.

If you think you have discovered an error or potential error in the question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question. Do not email your professor or anyone else about this while the exam is in progress.

PROFESSOR BESWICK'S INSTRUCTIONS

The exam is a fact pattern followed by one question worth 100 marks.

In answering this question, you do not need to go beyond the materials covered in our class syllabus (most recent version dated 11-Nov-20).

Take time at the start of the exam to read over the facts and question several times. Spot and sort the issues and plan how you will approach your answer.

Use headings / sub-headings / numbering as you find appropriate.

ACADEMIC INTEGRITY

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software. Students typing exam answers before or after the allocated exam writing time may receive a grade penalty.

CONFIDENTIALITY REGULATIONS – READ CAREFULLY

As this exam is being written off-campus and is unsupervised, any communication whatsoever (including, but not limited to in person, telephone, e-mail, text, social media, etc.) concerning the contents of this examination with anyone (other than the Student Services staff of the Allard School of Law) is strictly prohibited.

In the event any information comes to your attention regarding a breach of these regulations (by others, or inadvertently by you), please immediately contact Student Academic Services (studentservices@allard.ubc.ca) and make full disclosure.

A breach of these regulations may constitute student misconduct, and you may be subject to penalty or discipline under UBC's Academic Misconduct policies.

What Do I Do If:

- **I cannot access the exam questions on Canvas**

If you experience technical difficulties accessing the exam questions on Canvas, email studentservices@allard.ubc.ca and the exam questions will be emailed to you. Please provide your phone number when emailing Student Services.

- **I'm experiencing technical difficulties DURING THE WRITING of the exam**

If you experience technical difficulties with Exemplify at the very beginning or during an exam, you may attempt to solve your problem/reboot your computer **BY YOURSELF**. You are **STRONGLY** encouraged to spend **NO MORE THAN 5 minutes** attempting to do so. You will **NOT BE GIVEN ANY EXTRA TIME** to complete the exam. **If your attempt to solve the problem is unsuccessful**, or if you choose not to make such an attempt, you **MUST** immediately **begin hand-writing** your exam answers with pen on lined paper. **You may NOT type your exam answer in word-processing software.**

When you have finished writing the exam, you must upload the exam answers that you completed in Exemplify (if you are prompted for a Resume Code, it is on the coversheet of the exam questions). Email Bernie Flinn, flinn@allard.ubc.ca, for help with this. Please provide your phone number in the email. Bernie or another IT Support staff person will then help you to upload any answers that you typed in Exemplify.

You must also upload to Canvas your hand-written exam answers into the “Exam Answer File Upload (Word Processor or Hand-written ONLY)” folder. Scan or take a picture of each page (.jpg) of your exam and put them into one folder to upload.

Your answer file should be named, and the coversheet of your answers should be titled with:
Your Exam Code, Course Number, Name of Course, and Instructor Name
i.e., **9999 LAW 100.001 Law of Exam Taking - Galileo**

- **I’m experiencing technical difficulties EXITING and UPLOADING the exam**

If you experience any difficulty exiting and uploading your Exemplify exam answers, you must wait until the allocated time period specified on the coversheet of the exam has ended, then email Bernie Flinn, flinn@allard.ubc.ca, and he or another IT Support staff person will help you to upload your Exemplify exam file. Please provide your phone number in the email.

If you have approved accommodations to type your answers using Word Processing Software, and experience difficulties uploading your exam answer file to Canvas, email your exam answer file to studentservices@ubc.ca.

- **I fall ill in the middle of an exam, or am otherwise interrupted such that I’m unable to continue writing my exam**

Please stop writing, note the time that you stopped, and email studentservices@allard.ubc.ca immediately to notify them and discuss options. Please provide your phone number when emailing Student Services.

END OF COVER PAGES

MARKS: 100

Every year following their first set of exams at Allard Law, First Year students in the Gee small group hold a celebratory parade. Their parade begins at 3pm outside Allard Hall on UBC's Vancouver campus and finishes at the Gastown Steam Clock in downtown Vancouver. The students walk on the city sidewalks each dressed as their favourite law professor, waving streamers and singing anthems like Queen's "*We are the Champions*", and blowing horns and kazoos that they borrow with permission from UBC's School of Music. While the parade tends to be lively and jovial, the students obey the traffic lights and do their best not to disrupt traffic.

Glenn Cullen and **Terri Coverley** are two Gee students who took part in the parade on Friday, December 21, 2018. Their friend **Hugh Abbot**, who is in the Film Studies program at UBC, joined them with his video camera to document the event.

As the small group of students noisily marched eastward through the suburb of Kitsilano, they passed by the house of notorious local grinch, **Oliver Reeder**. Oliver had been tending to his award-winning tulip garden when he became perturbed by Glenn's enthusiastic horn-blowing. Oliver pointed at Glenn, raised his fist, and yelled, "*Oi! If you keep wailing on like that in my neighbourhood, I'll come over there and give you something real to wail about.*" While the other Gee students continued on parading down the street, Glenn—who is known to be a bit of a hothead—stopped and responded, "bring it on, old man." After an exchange of insults, Glenn walked up the driveway toward Oliver. Glenn stood a metre in front of Oliver and said, "*This is a free country. And I'm a law student. I've read the Charter. I have freedom of speech and music!*" In response, Oliver grabbed the horn out of Glenn's hand and shoved Glenn backwards, saying, "*Not on my property you don't. Get lost.*" Oliver's shove caused Glenn to lose his footing and fall backwards into a bush. As he landed, Glenn impaled his arm on an old upturned rake that had been lying concealed beneath the bush. Glenn's arm immediately began bleeding. Oliver threw Glenn's horn over the fence onto the front yard of his neighbour, **Nicola Murray**, and Oliver went inside his home.

Hugh had stayed back to film this commotion between Glenn and Oliver from the sidewalk with his video camera. He filmed as Glenn left Oliver's driveway and stepped over Nicola's picket fence to collect his horn from her yard. Glenn then hurried off to the Emergency Room to have his wound treated.

Rather than carrying on, Hugh stayed where he was after becoming distracted by music coming through a window on the second floor of Nicola's house. Though the curtains had been pulled three-quarters shut, the window was open and a strong breeze was causing the curtains to flutter apart. Still recording, Hugh zoomed his camera in toward the window. Through the camera viewer he saw Nicola dancing around the bedroom and singing to herself. She was singing along to Lady Gaga's pop hit, "*Born This Way*", using her hairbrush as a microphone. As she danced and sang around the room she began to pull items of clothing out of her wardrobe. Hugh continued filming as Nicola removed the top outer garment she was wearing and continued dancing around in her singlet. After a few minutes, Nicola noticed in her vanity mirror that someone outside was filming her with a camera. She screamed with alarm, threw on her dressing-gown, locked the window, and closed the curtains. She then hurried downstairs to lock all the windows and doors. Hugh promptly fled the scene. Nicola was upset for the rest of the day and couldn't sleep a wink that night, anxious that the filming stranger might return.

Meanwhile, Terri led her fellow Gee students parading toward Granville Bridge on their way to the Gastown Steam Clock. As they marched up from the southwest end of the bridge with cars rushing by them and the sun setting, they noticed that two large men wearing leather jackets and gang patches were slowly walking about 20 metres behind them. The men had three vicious-looking dogs at their side. Near the northeast end of the bridge they encountered a third man wearing a similar leather jacket. This third man introduced himself to Terri and her friends as "**Malcolm Tucker**, *toll collector*." Malcolm said he was collecting a \$10 toll from each person who crosses Granville Bridge. When Terri protested that this was a public bridge and he had no right to charge a toll, Malcolm responded that while he wasn't a violent guy, he couldn't say the same about his associates standing on the bridge sidewalk 20 metres behind the group. He said the students had no option but to pay up, given their route southwest was now blocked. Afraid to turn back, Terri and the other students each gave Malcolm a \$10 note, which he pocketed, and the students passed by. They ultimately reached the Gastown Steam Clock and gathered together in a nearby pub, feeling a little deflated about their encounter on the bridge, but mostly pleased and contented that their first set of law exams were now behind them.

Explain what tort actions Glenn, Nicola and Terri could bring and whether, in light of any defences, they are likely to succeed.

END OF EXAMINATION